



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4136

Introduced 2/27/2009, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

755 ILCS 45/2-1	from Ch. 110 1/2, par. 802-1
755 ILCS 45/2-5	from Ch. 110 1/2, par. 802-5
755 ILCS 45/2-8	from Ch. 110 1/2, par. 802-8
755 ILCS 45/2-10	from Ch. 110 1/2, par. 802-10
755 ILCS 45/2-10.5 new	
755 ILCS 45/2-10.6 new	
755 ILCS 45/2-11	from Ch. 110 1/2, par. 802-11
755 ILCS 45/3-3	from Ch. 110 1/2, par. 803-3
755 ILCS 45/3-3.5 new	
755 ILCS 45/3-3.6 new	
755 ILCS 45/4-5.1 new	
755 ILCS 45/4-10	from Ch. 110 1/2, par. 804-10
755 ILCS 45/4-12	from Ch. 110 1/2, par. 804-12

Amends the Illinois Power of Attorney Act. Provides that an agent shall furnish a notarized certificate to the reliant (instead of the agent shall furnish a reliant an affidavit on demand stating that the principal is alive and the agent's powers have not been altered or terminated) which includes: the agent's duties; requirements that an agent avoid conflicts, keep records, and not commingle funds; awareness that liability may arise from a violation; and the principal is alive. Provides that a principal shall not have co-agents. Provides that a health care agency shall be witnessed by 2 people none of whom are: a medical care or other provider, or his or her relative; a parent, sibling, descendant, or any spouse of the principal or agent; or an agent or successor agent. Provides that an agent may make decisions concerning anatomical gifts and a person's remains. Provides that a power shall identify the person preparing the form. Provides that the health form must include a choice allowing the principal to have life prolonged unless permanently unconsciousness. Provides that if the power of attorney grants authority to co-agents, it shall be exercisable by majority vote, unless prompt action is required by one agent. Provides that an agent is not liable for another agent's actions unless the agent participates in or conceals a breach of fiduciary duty. Provides that these provisions do not invalidate any prior agency or any agent's act, or affect any claim that accrued before the effective date. Makes other changes.

LRB096 11759 AJO 22527 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Power of Attorney Act is amended by
5 changing Sections 2-1, 2-5, 2-8, 2-10, 2-11, 3-3, 4-10, and
6 4-12 and by adding Sections 2-10.5, 2-10.6, 3-3.5, 3-3.6, and
7 4-5.1, as follows:

8 (755 ILCS 45/2-1) (from Ch. 110 1/2, par. 802-1)

9 Sec. 2-1. Purpose. The General Assembly recognizes that
10 each individual has the right to appoint an agent to make deal
11 with property, financial, or make personal, and health care
12 decisions for the individual but that this right cannot be
13 fully effective unless the principal may empower the agent to
14 act throughout the principal's lifetime, including during
15 periods of disability, and have confidence ~~be sure~~ that third
16 parties will honor the agent's authority at all times.

17 The General Assembly finds that in the light of modern
18 financial needs and advances in medical science, the statutory
19 recognition of this right of delegation in Illinois needs to be
20 restated which will ~~to~~, among other things, expand the ~~its~~
21 application and the permissible scope of the agent's authority,
22 clarify the power of the individual to authorize an agent to
23 make financial and care decisions for the individual and better

1 protect health care personnel and other third parties who rely
2 in good faith on the agent so that reliance will be assured.
3 Nothing in this Act shall be deemed to authorize or encourage
4 euthanasia, suicide or any action or course of action that
5 violates the criminal law of this State or the United States.
6 Similarly, nothing in this Act shall be deemed to authorize or
7 encourage any violation of a civil right expressed in the
8 Constitution, statutes, case law and administrative rulings of
9 this State (including, without limitation, the right of
10 conscience respected and protected by the Health Care Right of
11 Conscience Act, as now or hereafter amended) or the United
12 States or any action or course of action that violates the
13 public policy expressed in the Constitution, statutes, case law
14 and administrative rulings of this State or the United States.
15 (Source: P.A. 90-655, eff. 7-30-98.)

16 (755 ILCS 45/2-5) (from Ch. 110 1/2, par. 802-5)
17 Sec. 2-5. Duration of agency - amendment and revocation.
18 Unless the agency states an earlier termination date, the
19 agency continues until the death of the principal,
20 notwithstanding any lapse of time, the principal's disability
21 or incapacity or appointment of a guardian for the principal
22 after the agency is signed. Every agency may be amended or
23 revoked by the principal, if the principal has the capacity to
24 do so, at any time and in any manner communicated to the agent
25 or to any other person related to the subject matter of the

1 agency, except that revocation and amendment of health care
2 agencies are governed by Section 4-6 of this Act except to the
3 extent the terms of the agencies are inconsistent with that
4 Section.

5 (Source: P.A. 86-736.)

6 (755 ILCS 45/2-8) (from Ch. 110 1/2, par. 802-8)

7 Sec. 2-8. Reliance on document purporting to establish an
8 agency. Any person who acts in good faith reliance on a copy of
9 a document purporting to establish an agency will be fully
10 protected and released to the same extent as though the reliant
11 had dealt directly with the named principal as a
12 fully-competent person. ~~The named agent shall furnish an~~
13 ~~affidavit to the reliant on demand stating that the instrument~~
14 ~~relied on is a true copy of the agency and that, to the best of~~
15 ~~the named agent's knowledge, the named principal is alive and~~
16 ~~the relevant powers of the named agent have not been altered or~~
17 ~~terminated; but good faith reliance on a document purporting to~~
18 ~~establish an agency will protect the reliant without the~~
19 ~~affidavit.~~

20 (a) Upon request, the named agent in a power of attorney
21 shall furnish a Certification and Acceptance of Authority to
22 the reliant in substantially the following form:

23 AGENT'S CERTIFICATION AND ACCEPTANCE

1 I, (Name of Agent), certify that the attached is a true
2 copy of a Power of Attorney naming the undersigned as agent or
3 successor agent for (Name of Principal); and

4 I certify that to the best of my knowledge the Principal is
5 alive and has not revoked the Power of Attorney and that my
6 powers as agent have not been altered or terminated and that
7 the Power of Attorney remains in full force and effect.

8 I accept appointment as agent under this Power of Attorney.

9 Dated:.....

.....

(Agent's Signature)

.....

(Print Agent's Name)

.....

(Agent's Address)

16 This document was acknowledged, signed and sworn to before
17 me on (date) by (Name of Agent).

18 [SEAL]

19 My commission expires.....

(Signature of Notary)

21 (b) Any person dealing with an agent named in a copy of a
22 document purporting to establish an agency may presume, in the
23 absence of actual knowledge to the contrary, that the document

1 purporting to establish the agency was validly executed, that
2 the agency was validly established, that the named principal
3 was competent at the time of execution, and that, at the time
4 of reliance, the named principal is alive, the agency was
5 validly established and has not terminated or been amended, the
6 relevant powers of the named agent were properly and validly
7 granted and have not terminated or been amended, and the acts
8 of the named agent conform to the standards of this Act. No
9 person relying on a copy of a document purporting to establish
10 an agency shall be required to see to the application of any
11 property delivered to or controlled by the named agent or to
12 question the authority of the named agent.

13 (c) Each person to whom a direction by the named agent in
14 accordance with the terms of the copy of the document
15 purporting to establish an agency is communicated shall comply
16 with that direction, and any person who fails to comply
17 arbitrarily or without reasonable cause shall be subject to
18 civil liability for any damages resulting from noncompliance. A
19 health care provider who complies with Section 4-7 shall not be
20 deemed to have acted arbitrarily or without reasonable cause.

21 (Source: P.A. 90-21, eff. 6-20-97.)

22 (755 ILCS 45/2-10) (from Ch. 110 1/2, par. 802-10)

23 Sec. 2-10. Agency-court relationship.

24 (a) Upon petition by any interested person (including the
25 agent), with such notice to interested persons as the court

1 directs and a finding by the court that the principal lacks
2 either the capacity to control or the capacity to revoke the
3 agency, the court may construe a power of attorney, review the
4 agent's conduct, and grant appropriate relief including
5 compensatory damages. ~~:(a) if~~

6 (b) If the court finds that the agent is not acting for the
7 benefit of the principal in accordance with the terms of the
8 agency or that the agent's action or inaction has caused or
9 threatens substantial harm to the principal's person or
10 property in a manner not authorized or intended by the
11 principal, the court may order a guardian of the principal's
12 person or estate to exercise any powers of the principal under
13 the agency, including the power to revoke the agency, or may
14 enter such other orders without appointment of a guardian as
15 the court deems necessary to provide for the best interests of
16 the principal.

17 (c) If, ~~or (b) if~~ the court finds that the agency requires
18 interpretation, the court may construe the agency and instruct
19 the agent, but the court may not amend the agency.

20 (d) If the court finds that the agent has not acted for the
21 benefit of the principal in accordance with the terms of the
22 agency and the Illinois Power of Attorney Act, or that the
23 agent's action or inaction caused or threatened substantial
24 harm to the principal's person or property in a manner not
25 authorized or intended by the principal, then the agent shall
26 not be authorized to pay or be reimbursed from the estate of

1 the principal the attorneys' fees and costs of the agent in
2 defending a proceeding brought pursuant to this Section.

3 (e) Upon a finding that the agent's action has caused
4 substantial harm to the principal's person or property, the
5 Court may assess against the agent reasonable costs and
6 attorney's fees to a prevailing party who is a provider agency
7 as defined in Section 2 of the Elder Abuse and Neglect Act, a
8 representative of the Office of the State Long Term Care
9 Ombudsman, or a governmental agency having regulatory
10 authority to protect the welfare of the principal.

11 (f) An interested person under this Section includes (1)
12 the principal or the agent; (2) a guardian of the person,
13 guardian of the estate, or other fiduciary charged with
14 management of the principal's property; (3) the principal's
15 spouse, parent, or descendant; (4) a person who would be a
16 presumptive heir-at-law of the principal; (5) a person named as
17 a beneficiary to receive any property, benefit, or contractual
18 right on the principal's death, or as a beneficiary of a trust
19 created by or for the principal; (6) a provider agency as
20 defined in Section 2 of the Elder Abuse and Neglect Act, a
21 representative of the Office of the State Long Term Care
22 Ombudsman, or a governmental agency having regulatory
23 authority to protect the welfare of the principal; and (7) the
24 principal's caregiver or another person who demonstrates
25 sufficient interest in the principal's welfare.

26 (g) Absent court order directing a guardian to exercise

1 powers of the principal under the agency, a guardian will have
2 no power, duty or liability with respect to any property
3 subject to the agency or any personal or health care matters
4 covered by the agency.

5 (h) Proceedings under this Section shall be commenced in
6 the county where the guardian was appointed or, if no Illinois
7 guardian is acting, then in the county where the agent or
8 principal resides or owns real property, ~~if the agent does not~~
9 ~~reside in Illinois, then in any county.~~

10 (i) This Section shall not be construed to limit any other
11 remedies available.

12 (Source: P.A. 85-701.)

13 (755 ILCS 45/2-10.5 new)

14 Sec. 2-10.5. Co-agents and successor agents.

15 (a) Unless the power of attorney or this Section otherwise
16 provides, authority granted to 2 or more co-agents is
17 exercisable only by their majority consent. However, if prompt
18 action is required to accomplish the purposes of the power of
19 attorney or to avoid irreparable injury to the principal's
20 interests and an agent is unavailable because of absence,
21 illness, or other temporary incapacity, the other agent or
22 agents may act for the principal. If a vacancy occurs in one or
23 more of the designations of agent under a power of attorney,
24 the remaining agent or agents may act for the principal.

25 (b) A principal may designate one or more successor agents

1 to act if an initial or predecessor agent resigns, dies,
2 becomes incapacitated, is not qualified to serve, or declines
3 to serve. A principal may grant authority to another person,
4 designated by name, by office, or by function, including an
5 initial or successor agent, to designate one or more successor
6 agents. Unless a power of attorney otherwise provides, a
7 successor agent has the same authority as that granted to an
8 initial agent.

9 (c) An agent is not liable for the actions of another
10 agent, including a predecessor agent, unless the agent
11 participates in or conceals a breach of fiduciary duty
12 committed by the other agent. An agent who has knowledge of a
13 breach or imminent breach of fiduciary duty by another agent
14 must notify the principal and, if the principal is
15 incapacitated, take whatever actions may be reasonably
16 appropriate in the circumstances to safeguard the principal's
17 best interest.

18 (d) Any person who acts in good faith reliance on the
19 representation of a co-agent or successor agent regarding the
20 unavailability of the primary agent or one or more co-agents,
21 or the need for prompt action to accomplish the purposes of the
22 power of attorney or to avoid irreparable injury to the
23 principal's interests, will be fully protected and released to
24 the same extent as though the reliant had dealt directly with
25 all named agents. Upon request, the named agent in a Power of
26 Attorney for Property shall furnish a Certification and

1 Acceptance of Authority to the reliant in substantially the
2 following form:

3 AGENT'S CERTIFICATION AND ACCEPTANCE

4 I certify that to the best of my knowledge that the
5 following named agent is unavailable due to (death,
6 resignation, absence, illness, or other temporary incapacity)
7 (circle reason).

8 I certify that prompt action is required to accomplish the
9 purposes of the power of attorney or to avoid irreparable
10 injury to the principal's interests.

11 I accept appointment as agent under this Power of Attorney.

12 Dated:.....

13
14 (Agent's Signature)

15
16 (Print Agent's Name)

17
18 (Agent's Address)

19 This document was acknowledged, signed and sworn to before
20 me on (date) by (Name of Agent).

21 [SEAL]

22 My commission expires.....

23
24 (Signature of Notary)

1 (755 ILCS 45/2-10.6 new)

2 Sec. 2-10.6. Power of attorney executed in another state or
3 country; pre-existing powers of attorney.

4 (a) A power of attorney executed in another state or
5 country is valid and enforceable in this State if its creation
6 complied when executed with:

7 (1) the law of the state or country in which the power
8 of attorney was executed;

9 (2) the law of this State;

10 (3) the law of the state or country where the principal
11 is domiciled, has a place of abode or business, or is a
12 national; or

13 (4) the law of the state or country where the agent is
14 domiciled or has a place of business.

15 (b) A power of attorney executed in this State before the
16 effective date of this amendatory Act of the 96th General
17 Assembly is valid and enforceable in this State if its creation
18 complied with the law of this State as it existed at the time
19 of execution.

20 (755 ILCS 45/2-11) (from Ch. 110 1/2, par. 802-11)

21 Sec. 2-11. Saving clause. This Act does not in any way
22 invalidate any agency executed or any act of any agent done, or
23 affect any claim, right or remedy that accrued, prior to
24 September 22, 1987.

25 This amendatory Act of the 96th General Assembly does not

1 in any way invalidate any agency executed or any act of any
2 agent done, or affect any claim, right, or remedy that accrued
3 prior to the effective date of this amendatory Act of the 96th
4 General Assembly.

5 (Source: P.A. 86-736.)

6 (755 ILCS 45/3-3) (from Ch. 110 1/2, par. 803-3)

7 Sec. 3-3. Statutory short form power of attorney for
8 property. The following form may be known as "statutory
9 property power" and may be used to grant an agent powers with
10 respect to property and financial matters. When a power of
11 attorney in substantially the following form is used, including
12 the "notice" paragraph at the beginning of the form on a
13 separate sheet in 14-point type ~~in capital letters~~ and the
14 notarized form of acknowledgment at the end, it shall have the
15 meaning and effect prescribed in this Act. Such a document
16 shall be deemed to be substantially the same format as the
17 statutory form if the explanatory language throughout the
18 document is distinguished in some way from the legal paragraphs
19 in the form, such as italicization or other difference in type
20 face or point size, if the "notice" paragraphs at the beginning
21 are not on a separate sheet of paper or are not in 14-point
22 type, or if the principal's initials do not appear in the
23 acknowledgement at the end of the "notice" paragraphs. The
24 validity of a power of attorney as meeting the requirements of
25 a statutory property power shall not be affected by the fact

1 that one or more of the categories of optional powers listed in
2 the form are struck out or the form includes specific
3 limitations on or additions to the agent's powers, as permitted
4 by the form. Nothing in this Article shall invalidate or bar
5 use by the principal of any other or different form of power of
6 attorney for property. Nonstatutory property powers must be
7 executed by the principal and designate the agent and the
8 agent's powers, but they need not be acknowledged or conform in
9 any other respect to the statutory property power.

10 "NOTICE TO THE INDIVIDUAL SIGNING THE ILLINOIS
11 STATUTORY SHORT FORM POWER OF ATTORNEY FOR PROPERTY.

12 PLEASE READ THIS NOTICE CAREFULLY. The form that you will
13 be signing is a legal document. It is governed by the Illinois
14 Power of Attorney Act. If there is anything about this form
15 that you do not understand, you should ask a lawyer to explain
16 it to you.

17 The purpose of this Power of Attorney is to give your
18 designated "agent" broad powers to handle your financial
19 affairs, which may include the power to pledge, sell, or
20 dispose of any of your real or personal property, even without
21 your consent or any advance notice to you. You may name
22 successor agents under this form, but you may not name
23 co-agents.

1 This form does not impose a duty upon your agent to handle
2 your financial affairs, so it is important that you select an
3 agent who will agree to do this for you. It is also important
4 to select an agent whom you trust, since you are giving that
5 agent control over your financial assets and property. Any
6 agent who does act for you has a duty to use due care to act for
7 your benefit. He or she must also act in accordance with the
8 law and with the directions in this form. Your agent must keep
9 a record of all receipts, disbursements, and significant
10 actions taken as your agent.

11 Unless you specifically limit the period of time that this
12 Power of Attorney will be in effect, your agent may exercise
13 the powers given to him or her throughout your lifetime, both
14 before and after you become incapacitated. A court, however,
15 can take away the powers of your agent if it finds that the
16 agent is not acting properly. You may also revoke this Power of
17 Attorney if you wish.

18 The Powers you give your agent are explained more fully in
19 Section 3-4 of the Illinois "Statutory Short Form Power of
20 Attorney for Property Law". This form is a part of that law.

21 You are not required to sign this Power of Attorney. You
22 should not sign the Power of Attorney if you do not understand
23 everything in it, and what your agent will be able to do if you

1 do sign it.

2 Please place your initials on the following line indicating
3 that you have read this Notice:

4
5 Principal's initials"

6 ~~ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR PROPERTY~~
7 ~~(NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE~~
8 ~~THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE~~
9 ~~YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR~~
10 ~~OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT~~
11 ~~ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. THIS FORM DOES NOT~~
12 ~~IMPOSE A DUTY ON YOUR AGENT TO EXERCISE GRANTED POWERS; BUT~~
13 ~~WHEN POWERS ARE EXERCISED, YOUR AGENT WILL HAVE TO USE DUE CARE~~
14 ~~TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THIS FORM AND~~
15 ~~KEEP A RECORD OF RECEIPTS, DISBURSEMENTS AND SIGNIFICANT~~
16 ~~ACTIONS TAKEN AS AGENT. A COURT CAN TAKE AWAY THE POWERS OF~~
17 ~~YOUR AGENT IF IT FINDS THE AGENT IS NOT ACTING PROPERLY. YOU~~
18 ~~MAY NAME SUCCESSOR AGENTS UNDER THIS FORM BUT NOT CO AGENTS.~~
19 ~~UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN THE~~
20 ~~MANNER PROVIDED BELOW, UNTIL YOU REVOKE THIS POWER OR A COURT~~
21 ~~ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY EXERCISE~~
22 ~~THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU~~
23 ~~BECOME DISABLED. THE POWERS YOU GIVE YOUR AGENT ARE EXPLAINED~~
24 ~~MORE FULLY IN SECTION 3-4 OF THE ILLINOIS "STATUTORY SHORT FORM~~
25 ~~POWER OF ATTORNEY FOR PROPERTY LAW" OF WHICH THIS FORM IS A~~

1 ~~PART (SEE THE BACK OF THIS FORM). THAT LAW EXPRESSLY PERMITS~~
 2 ~~THE USE OF ANY DIFFERENT FORM OF POWER OF ATTORNEY YOU MAY~~
 3 ~~DESIRE. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT~~
 4 ~~UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.)~~

5 POWER OF ATTORNEY made this day of (month)
 6 (year)

7 1. I,, (insert name and address of
 8 principal) hereby appoint:

9

10 (insert name and address of agent)

11 as my attorney-in-fact (my "agent") to act for me and in my
 12 name (in any way I could act in person) with respect to the
 13 following powers, as defined in Section 3-4 of the "Statutory
 14 Short Form Power of Attorney for Property Law" (including all
 15 amendments), but subject to any limitations on or additions to
 16 the specified powers inserted in paragraph 2 or 3 below:

17 (YOU MUST STRIKE OUT ANY ONE OR MORE OF THE FOLLOWING
 18 CATEGORIES OF POWERS YOU DO NOT WANT YOUR AGENT TO HAVE.
 19 FAILURE TO STRIKE THE TITLE OF ANY CATEGORY WILL CAUSE THE
 20 POWERS DESCRIBED IN THAT CATEGORY TO BE GRANTED TO THE AGENT.
 21 TO STRIKE OUT A CATEGORY YOU MUST DRAW A LINE THROUGH THE TITLE
 22 OF THAT CATEGORY.)

23 (a) Real estate transactions.

24 (b) Financial institution transactions.

25 (c) Stock and bond transactions.

- 1 (d) Tangible personal property transactions.
- 2 (e) Safe deposit box transactions.
- 3 (f) Insurance and annuity transactions.
- 4 (g) Retirement plan transactions.
- 5 (h) Social Security, employment and military service
- 6 benefits.
- 7 (i) Tax matters.
- 8 (j) Claims and litigation.
- 9 (k) Commodity and option transactions.
- 10 (l) Business operations.
- 11 (m) Borrowing transactions.
- 12 (n) Estate transactions.
- 13 (o) All other property powers and transactions.

14 (LIMITATIONS ON AND ADDITIONS TO THE AGENT'S POWERS MAY BE
 15 INCLUDED IN THIS POWER OF ATTORNEY IF THEY ARE SPECIFICALLY
 16 DESCRIBED BELOW.)

17 2. The powers granted above shall not include the following
 18 powers or shall be modified or limited in the following
 19 particulars (here you may include any specific limitations you
 20 deem appropriate, such as a prohibition or conditions on the
 21 sale of particular stock or real estate or special rules on
 22 borrowing by the agent):

- 23
- 24
- 25
- 26

1
2

3 3. In addition to the powers granted above, I grant my
4 agent the following powers (here you may add any other
5 delegable powers including, without limitation, power to make
6 gifts, exercise powers of appointment, name or change
7 beneficiaries or joint tenants or revoke or amend any trust
8 specifically referred to below):

9
10
11
12

13 (YOUR AGENT WILL HAVE AUTHORITY TO EMPLOY OTHER PERSONS AS
14 NECESSARY TO ENABLE THE AGENT TO PROPERLY EXERCISE THE POWERS
15 GRANTED IN THIS FORM, BUT YOUR AGENT WILL HAVE TO MAKE ALL
16 DISCRETIONARY DECISIONS. IF YOU WANT TO GIVE YOUR AGENT THE
17 RIGHT TO DELEGATE DISCRETIONARY DECISION-MAKING POWERS TO
18 OTHERS, YOU SHOULD KEEP THE NEXT SENTENCE, OTHERWISE IT SHOULD
19 BE STRUCK OUT.)

20 4. My agent shall have the right by written instrument to
21 delegate any or all of the foregoing powers involving
22 discretionary decision-making to any person or persons whom my
23 agent may select, but such delegation may be amended or revoked
24 by any agent (including any successor) named by me who is
25 acting under this power of attorney at the time of reference.

26 (YOUR AGENT WILL BE ENTITLED TO REIMBURSEMENT FOR ALL

1 REASONABLE EXPENSES INCURRED IN ACTING UNDER THIS POWER OF
2 ATTORNEY. STRIKE OUT THE NEXT SENTENCE IF YOU DO NOT WANT YOUR
3 AGENT TO ALSO BE ENTITLED TO REASONABLE COMPENSATION FOR
4 SERVICES AS AGENT.)

5 5. My agent shall be entitled to reasonable compensation
6 for services rendered as agent under this power of attorney.

7 (THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED BY YOU AT ANY
8 TIME AND IN ANY MANNER. ABSENT AMENDMENT OR REVOCATION, THE
9 AUTHORITY GRANTED IN THIS POWER OF ATTORNEY WILL BECOME
10 EFFECTIVE AT THE TIME THIS POWER IS SIGNED AND WILL CONTINUE
11 UNTIL YOUR DEATH UNLESS A LIMITATION ON THE BEGINNING DATE OR
12 DURATION IS MADE BY INITIALING AND COMPLETING EITHER (OR BOTH)
13 OF THE FOLLOWING:)

14 6. () This power of attorney shall become effective on
15
16 (insert a future date or event during your lifetime, such as
17 court determination of your disability, when you want this
18 power to first take effect)

19 7. () This power of attorney shall terminate on
20
21 (insert a future date or event, such as court determination of
22 your disability, when you want this power to terminate prior to
23 your death)

24 (IF YOU WISH TO NAME SUCCESSOR AGENTS, INSERT THE NAME(S) AND
25 ADDRESS(ES) OF SUCH SUCCESSOR(S) IN THE FOLLOWING PARAGRAPH.)

26 8. If any agent named by me shall die, become incompetent,

1 resign or refuse to accept the office of agent, I name the
2 following (each to act alone and successively, in the order
3 named) as successor(s) to such agent:

4
5

6 For purposes of this paragraph 8, a person shall be considered
7 to be incompetent if and while the person is a minor or an
8 adjudicated incompetent or disabled person or the person is
9 unable to give prompt and intelligent consideration to business
10 matters, as certified by a licensed physician. (IF YOU WISH TO
11 NAME YOUR AGENT AS GUARDIAN OF YOUR ESTATE, IN THE EVENT A
12 COURT DECIDES THAT ONE SHOULD BE APPOINTED, YOU MAY, BUT ARE
13 NOT REQUIRED TO, DO SO BY RETAINING THE FOLLOWING PARAGRAPH.
14 THE COURT WILL APPOINT YOUR AGENT IF THE COURT FINDS THAT SUCH
15 APPOINTMENT WILL SERVE YOUR BEST INTERESTS AND WELFARE. STRIKE
16 OUT PARAGRAPH 9 IF YOU DO NOT WANT YOUR AGENT TO ACT AS
17 GUARDIAN.)

18 9. If a guardian of my estate (my property) is to be
19 appointed, I nominate the agent acting under this power of
20 attorney as such guardian, to serve without bond or security.

21 10. I am fully informed as to all the contents of this form
22 and understand the full import of this grant of powers to my
23 agent.

24 Signed
25 (principal)

26 (YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND

1 SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU
2 INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU MUST
3 COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE
4 AGENTS.)

5 Specimen signatures of I certify that the signatures
6 agent (and successors) of my agent (and successors)
7 are correct.

8
9 (agent) (principal)

10
11 (successor agent) (principal)

12
13 (successor agent) (principal)

14 (THIS POWER OF ATTORNEY WILL NOT BE EFFECTIVE UNLESS IT IS
15 NOTARIZED AND SIGNED BY AT LEAST ONE ADDITIONAL WITNESS, USING
16 THE FORM BELOW.)

17 State of)
18) SS.

19 County of)

20 The undersigned, a notary public in and for the above
21 county and state, certifies that,
22 known to me to be the same person whose name is subscribed as
23 principal to the foregoing power of attorney, appeared before
24 me and the additional witness in person and acknowledged
25 signing and delivering the instrument as the free and voluntary
26 act of the principal, for the uses and purposes therein set

1 forth (, and certified to the correctness of the signature(s)
2 of the agent(s)).

3 Dated: (SEAL)

4

5 Notary Public

6 My commission expires

7 The undersigned witness certifies that, known
8 to me to be the same person whose name is subscribed as
9 principal to the foregoing power of attorney, appeared before
10 me and the notary public and acknowledged signing and
11 delivering the instrument as the free and voluntary act of the
12 principal, for the uses and purposes therein set forth. I
13 believe him or her to be of sound mind and memory.

14 Dated: (SEAL)

15

16 Witness

17 (THE NAME, ~~AND~~ ADDRESS, AND PHONE NUMBER OF THE PERSON
18 PREPARING THIS FORM OR WHO ASSISTED THE PRINCIPAL IN COMPLETING
19 THIS FORM SHOULD BE INSERTED BELOW ~~SHOULD BE INSERTED IF THE~~
20 ~~AGENT WILL HAVE POWER TO CONVEY ANY INTEREST IN REAL ESTATE.))~~

21

22 (Name)

23

24 (Address)

25

26 (Phone)

1 This document was prepared by:

2
3 "

4 The requirement of the signature of an additional witness
5 imposed by this amendatory Act of the 91st General Assembly
6 applies only to instruments executed on or after the effective
7 date of this amendatory Act of the 91st General Assembly.

8 (Source: P.A. 91-790, eff. 6-9-00.)

9 (755 ILCS 45/3-3.5 new)

10 Sec. 3-3.5. Notice to agent. The following form may be
11 known as "notice to agent" and may be supplied to an agent
12 appointed under a power of attorney for property.

13 "IMPORTANT INFORMATION FOR AGENT

14 When you accept the authority granted under this power of
15 attorney a special legal relationship, known as agency, is
16 created between you and the principal. Agency imposes upon you
17 duties that continue until you resign or the power of attorney
18 is terminated or revoked.

19 As agent you must:

20 (1) do what you know the principal reasonably expects you
21 to do with the principal's property;

22 (2) act in good faith with care, competence, and diligence
23 for the best interest of the principal;

24 (3) keep a complete record of all receipts, disbursements
25 and transactions conducted for the principal; and

1 (4) preserve the principal's estate plan to the extent you
2 know the plan, unless preserving the estate plan is
3 inconsistent with the principal's best interest.

4 As agent you must not:

5 (1) engage in conflicts that would impair your ability to
6 act in the principal's best interest;

7 (2) do any act beyond the authority granted in this power
8 of attorney;

9 (3) commingle the principal's funds with your funds;

10 (4) borrow funds or other property from the principal,
11 unless otherwise authorized; and

12 (5) continue acting on behalf of the principal if you learn
13 of any event which terminates this power of attorney or your
14 authority under this power of attorney.

15 If you have special skills or expertise, you must use those
16 special skills and expertise when acting for the principal. You
17 must disclose your identity as an agent whenever you act for
18 the principal by writing or printing the name of the principal
19 and signing your own name as "agent" in the following manner:

20 "(Principal's Name) by (Your Name) as Agent"

21 The meaning of the powers granted to you is contained in
22 the "Explanation of the powers granted in the statutory short
23 form power of attorney for property" attached to the Illinois
24 Short Form Power of Attorney for Property and in the body of
25 the power of attorney for property document.

26 If you violate your duties as agent or act outside the

1 authority granted to you, you may be liable for any damages,
2 including attorney's fees and costs, caused by your violation."

3 (755 ILCS 45/3-3.6 new)

4 Sec. 3-3.6. Limitations on who may witness property powers.
5 Every property power shall bear the signatures of 2 witnesses
6 to the signing of the agency. None of the following may serve
7 as a witness to the signing of a property power:

8 (a) the attending physician or mental health service
9 provider or relative of the physician or provider;

10 (b) an owner, operator, or relative of an owner or operator
11 of a health care facility in which the principal is a patient
12 or resident;

13 (c) a parent, sibling, descendant, or any spouse of such
14 parent, sibling, or descendant of either the principal or any
15 agent or successor agent, whether such relationship is by
16 blood, marriage, or adoption; or

17 (d) any agent or successor agent.

18 (755 ILCS 45/4-5.1 new)

19 Sec. 4-5.1. Limitations on who may witness health care
20 agencies. Every health care agency shall bear the signatures of
21 2 witnesses to the signing of the agency. None of the following
22 may serve as a witness to the signing of a health care agency:

23 (a) the attending physician or mental health service
24 provider or relative of the physician or provider;

1 (b) an owner, operator, or relative of an owner or operator
2 of a health care facility in which the principal is a patient
3 or resident;

4 (c) a parent, sibling, descendant, or any spouse of such
5 parent, sibling, or descendant of either the principal or any
6 agent or successor agent, whether such relationship is by
7 blood, marriage, or adoption; or

8 (d) any agent or successor agent.

9 (755 ILCS 45/4-10) (from Ch. 110 1/2, par. 804-10)

10 Sec. 4-10. Statutory short form power of attorney for
11 health care.

12 (a) The following form (sometimes also referred to in this
13 Act as the "statutory health care power") may be used to grant
14 an agent powers with respect to the principal's own health
15 care; but the statutory health care power is not intended to be
16 exclusive nor to cover delegation of a parent's power to
17 control the health care of a minor child, and no provision of
18 this Article shall be construed to invalidate or bar use by the
19 principal of any other or different form of power of attorney
20 for health care. Nonstatutory health care powers must be
21 executed by the principal, designate the agent and the agent's
22 powers, and comply with Section 4-5 of this Article, but they
23 need not be witnessed or conform in any other respect to the
24 statutory health care power. When a power of attorney in
25 substantially the following form is used, including the

1 "notice" paragraph at the beginning of the form on a separate
2 sheet in 14-point type in capital letters, it shall have the
3 meaning and effect prescribed in this Act. Such a document
4 shall be deemed to be in substantially the same format as the
5 statutory form if the explanatory language throughout the
6 document is distinguished in some way from the legal paragraphs
7 in the form, such as italicization or other difference in type
8 face or point size, if the "notice" paragraphs are not on a
9 separate sheet or not in 14-point type, or if the principal's
10 initials do not appear on the acknowledgment at the end of the
11 "notice" paragraphs. The statutory health care power may be
12 included in or combined with any other form of power of
13 attorney governing property or other matters.

14 NOTICE TO THE INDIVIDUAL SIGNING

15 THE ILLINOIS STATUTORY

16 SHORT FORM POWER OF ATTORNEY FOR HEALTH CARE

17 PLEASE READ THIS NOTICE CAREFULLY. The form that you will
18 be signing is a legal document. It is governed by the Illinois
19 Power of Attorney Act. If there is anything about this form
20 that you do not understand, you should ask a lawyer to explain
21 it to you.

22 The purpose of this Power of Attorney is to give your
23 designated "agent" broad powers to make health care decisions
24 for you, including the power to require, consent to, or
25 withdraw treatment for any physical or mental condition, and to
26 admit you or discharge you from any hospital, home, or other

1 institution. You may name successor agents under this form, but
2 you may not name co-agents.

3 This form does not impose a duty upon your agent to make
4 such health care decisions, so it is important that you select
5 an agent who will agree to do this for you and who will make
6 those decisions as you would wish. It is also important to
7 select an agent whom you trust, since you are giving that agent
8 control over your medical decision-making, including
9 end-of-life decisions. Any agent who does act for you has a
10 duty to use due care to act for your benefit. He or she must
11 also act in accordance with the law and with the directions in
12 this form. Your agent must keep a record of all significant
13 actions taken as your agent.

14 Unless you specifically limit the period of time that this
15 Power of Attorney will be in effect, your agent may exercise
16 the powers given to him or her throughout your lifetime, even
17 after you become disabled. A court, however, can take away the
18 powers of your agent if it finds that the agent is not acting
19 properly. You may also revoke this Power of Attorney if you
20 wish.

21 The Powers you give your agent, your right to revoke those
22 powers, and the penalties for violating the law are explained
23 more fully in Sections 4-5, 4-6 and 4-10(b) of the Illinois
24 Power of Attorney Act. This form is a part of that law.

25 You are not required to sign the Power of Attorney. You
26 should not sign it if you do not understand everything in it,

1 and what your agent will be able to do if you do sign it.

2 Please put your initials on the following line indicating
3 that you have read this Notice:

4
5 (Principal's initials)"

6 ~~"ILLINOIS STATUTORY SHORT FORM POWER OF ATTORNEY FOR HEALTH~~
7 ~~CARE~~

8 ~~(NOTICE: THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE~~
9 ~~THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO MAKE~~
10 ~~HEALTH CARE DECISIONS FOR YOU, INCLUDING POWER TO REQUIRE,~~
11 ~~CONSENT TO OR WITHDRAW ANY TYPE OF PERSONAL CARE OR MEDICAL~~
12 ~~TREATMENT FOR ANY PHYSICAL OR MENTAL CONDITION AND TO ADMIT YOU~~
13 ~~TO OR DISCHARGE YOU FROM ANY HOSPITAL, HOME OR OTHER~~
14 ~~INSTITUTION. THIS FORM DOES NOT IMPOSE A DUTY ON YOUR AGENT TO~~
15 ~~EXERCISE GRANTED POWERS; BUT WHEN POWERS ARE EXERCISED, YOUR~~
16 ~~AGENT WILL HAVE TO USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN~~
17 ~~ACCORDANCE WITH THIS FORM AND KEEP A RECORD OF RECEIPTS,~~
18 ~~DISBURSEMENTS AND SIGNIFICANT ACTIONS TAKEN AS AGENT. A COURT~~
19 ~~CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS THE AGENT IS~~
20 ~~NOT ACTING PROPERLY. YOU MAY NAME SUCCESSOR AGENTS UNDER THIS~~
21 ~~FORM BUT NOT CO-AGENTS, AND NO HEALTH CARE PROVIDER MAY BE~~
22 ~~NAMED. UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THIS POWER IN~~
23 ~~THE MANNER PROVIDED BELOW, UNTIL YOU REVOKE THIS POWER OR A~~
24 ~~COURT ACTING ON YOUR BEHALF TERMINATES IT, YOUR AGENT MAY~~
25 ~~EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN~~
26 ~~AFTER YOU BECOME DISABLED. THE POWERS YOU GIVE YOUR AGENT, YOUR~~

1 ~~RIGHT TO REVOKE THOSE POWERS AND THE PENALTIES FOR VIOLATING~~
 2 ~~THE LAW ARE EXPLAINED MORE FULLY IN SECTIONS 4-5, 4-6, 4-9 AND~~
 3 ~~4-10(b) OF THE ILLINOIS "POWERS OF ATTORNEY FOR HEALTH CARE~~
 4 ~~LAW" OF WHICH THIS FORM IS A PART (SEE THE BACK OF THIS FORM).~~
 5 ~~THAT LAW EXPRESSLY PERMITS THE USE OF ANY DIFFERENT FORM OF~~
 6 ~~POWER OF ATTORNEY YOU MAY DESIRE. IF THERE IS ANYTHING ABOUT~~
 7 ~~THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER~~
 8 ~~TO EXPLAIN IT TO YOU.)~~

9 POWER OF ATTORNEY made thisday of
 10

11 (month) (year)

12 1. I,,
 13 (insert name and address of principal)

14 hereby appoint:
 15

16 (insert name and address of agent)

17 as my attorney-in-fact (my "agent") to act for me and in my
 18 name (in any way I could act in person) to make any and all
 19 decisions for me concerning my personal care, medical
 20 treatment, hospitalization and health care and to require,
 21 withhold or withdraw any type of medical treatment or
 22 procedure, even though my death may ensue.

23 In the event that my agent fails or refuses to act, then my
 24 medical provider shall be governed by my Living Will.

25 A. My agent shall have the same access to my medical
 26 records that I have, including the right to disclose the

1 contents to others. ~~My agent shall also have full power to~~
2 ~~authorize an autopsy and direct the disposition of my remains.~~

3 B. Effective upon my death, my agent has the full power to
4 make an anatomical gift of the following (Initial ~~initial~~ one.
5 In the event none of the options are initialed, then it shall
6 be concluded that I do not wish to grant my agent any such
7 authority.):

8Any organs, tissues, or eyes suitable for
9 transplantation or used for research or education.

10Specific organs:

11I do not grant my agent authority to make any
12 anatomical gifts.

13 C. My agent shall also have full power to authorize an
14 autopsy and direct the disposition of my remains. I intend for
15 this power of attorney to be in substantial compliance with
16 Section 10 of the Disposition of Remains Act, 755 ILCS 65/1 et
17 seq. All decisions made by my agent with respect to the
18 disposition of my remains, including cremation, shall be
19 binding. I hereby direct any cemetery organization, business
20 operating a crematory or columbarium or both, funeral director
21 or embalmer, or funeral establishment who receives a copy of
22 this document to act under it.

23 I intend for the person named as my agent to be treated as
24 I would be with respect to my rights regarding the use and
25 disclosure of my individually identifiable health information
26 or other medical records, including records or communications

1 governed by the Mental Health and Developmental Disabilities
2 Confidentiality Act. This release authority applies to any
3 information governed by the Health Insurance Portability and
4 Accountability Act of 1996 ("HIPAA") and regulations
5 thereunder. I intend for the person named as my agent to serve
6 as my "personal representative" as that term is defined under
7 HIPAA and regulations thereunder. The person named as my agent
8 shall have the power to authorize the release of information
9 governed by HIPAA to third parties. I authorize:

10 any physician, health care professional, dentist,
11 health plan, hospital, clinic, laboratory, pharmacy or
12 other covered health care provider, any insurance company
13 and the Medical Informational Bureau, Inc., or any other
14 health care clearinghouse that has provided treatment or
15 services to me, or that has paid for or is seeking payment
16 for me for such services,
17 to give, disclose, and release to the person named as my agent,
18 without restriction, all of my individually identifiable
19 health information and medical records, regarding any past,
20 present, or future medical or mental health condition,
21 including all information relating to the diagnosis and
22 treatment of HIV/AIDS, sexually transmitted diseases, drug or
23 alcohol abuse, and mental illness (including records or
24 communications governed by the Mental Health and Developmental
25 Disabilities Confidentiality Act.)

26 The authority given to the person named as my agent shall

1 supersede any prior agreement that I may have with my health
2 care providers to restrict access to, or disclosure of, my
3 individually identifiable health information. The authority
4 given to the person named as my agent has no expiration date
5 and shall expire only in the event that I revoke the authority
6 in writing and deliver it to my health care provider. The
7 authority given to the person named as my agent to serve as my
8 "personal representative" as defined under HIPAA and
9 regulations thereunder and to access my individually
10 identifiable health information or authorize the release of the
11 same to third parties shall take effect immediately, even if I
12 designate in Paragraph 3 of this document that this agency
13 shall otherwise take effect at some future date.

14 (THE ABOVE GRANT OF POWER IS INTENDED TO BE AS BROAD AS
15 POSSIBLE SO THAT YOUR AGENT WILL HAVE AUTHORITY TO MAKE ANY
16 DECISION YOU COULD MAKE TO OBTAIN OR TERMINATE ANY TYPE OF
17 HEALTH CARE, INCLUDING WITHDRAWAL OF FOOD AND WATER AND OTHER
18 LIFE-SUSTAINING MEASURES, IF YOUR AGENT BELIEVES SUCH ACTION
19 WOULD BE CONSISTENT WITH YOUR INTENT AND DESIRES. IF YOU WISH
20 TO LIMIT THE SCOPE OF YOUR AGENT'S POWERS OR PRESCRIBE SPECIAL
21 RULES OR LIMIT THE POWER TO MAKE AN ANATOMICAL GIFT, AUTHORIZE
22 AUTOPSY OR DISPOSE OF REMAINS, YOU MAY DO SO IN THE FOLLOWING
23 PARAGRAPHS.)

24 2. The powers granted above shall not include the following
25 powers or shall be subject to the following rules or
26 limitations (here you may include any specific limitations you

1 deem appropriate, such as: your own definition of when
 2 life-sustaining measures should be withheld; a direction to
 3 continue food and fluids or life-sustaining treatment in all
 4 events; or instructions to refuse any specific types of
 5 treatment that are inconsistent with your religious beliefs or
 6 unacceptable to you for any other reason, such as blood
 7 transfusion, electro-convulsive therapy, amputation,
 8 psychosurgery, voluntary admission to a mental institution,
 9 etc.):

10
 11
 12
 13
 14

15 (THE SUBJECT OF LIFE-SUSTAINING TREATMENT IS OF PARTICULAR
 16 IMPORTANCE. FOR YOUR CONVENIENCE IN DEALING WITH THAT SUBJECT,
 17 SOME GENERAL STATEMENTS CONCERNING THE WITHHOLDING OR REMOVAL
 18 OF LIFE-SUSTAINING TREATMENT ARE SET FORTH BELOW. IF YOU AGREE
 19 WITH ONE OF THESE STATEMENTS, YOU MAY INITIAL THAT STATEMENT;
 20 BUT DO NOT INITIAL MORE THAN ONE):

21 I do not want my life to be prolonged nor do I want
 22 life-sustaining treatment to be provided or continued if my
 23 agent believes the burdens of the treatment outweigh the
 24 expected benefits. I want my agent to consider the relief of
 25 suffering, the expense involved and the quality as well as the
 26 possible extension of my life in making decisions concerning

1 life-sustaining treatment.

2 Initialed.....

3 I want my life to be prolonged and I want life-sustaining
 4 treatment to be provided or continued unless I am ~~in a coma~~
 5 ~~which my attending physician believes to be irreversible~~, in
 6 the opinion of my attending physician, in accordance with
 7 reasonable medical standards at the time of reference, in a
 8 state of "permanent unconsciousness". If and when I am in a
 9 state of "permanent unconsciousness" ~~I have suffered~~
 10 ~~irreversible coma~~, I want life-sustaining treatment to be
 11 withheld or discontinued. For purposes of this Section,
 12 "permanent unconsciousness" shall mean a condition that, to a
 13 high degree of medical certainty, (i) will last permanently,
 14 without improvement, (ii) in which thought, sensation,
 15 purposeful action, social interaction, and awareness of self
 16 and environment are absent, and (iii) for which initiating or
 17 continuing life sustaining treatment, in light of my medical
 18 condition, provides only minimal medical benefit.

19 Initialed.....

20 I want my life to be prolonged to the greatest extent
 21 possible without regard to my condition, the chances I have for
 22 recovery or the cost of the procedures.

23 Initialed.....

24 (THIS POWER OF ATTORNEY MAY BE AMENDED OR REVOKED BY YOU IN THE
 25 MANNER PROVIDED IN SECTION 4-6 OF THE ILLINOIS "POWERS OF
 26 ATTORNEY FOR HEALTH CARE LAW" (SEE THE BACK OF THIS FORM). YOUR

1 AGENT CAN ACT IMMEDIATELY UNLESS YOU SPECIFY OTHERWISE. ABSENT
 2 AMENDMENT OR REVOCATION, THE AUTHORITY GRANTED IN THIS POWER OF
 3 ATTORNEY WILL BECOME EFFECTIVE AT THE TIME THIS POWER IS SIGNED
 4 AND WILL CONTINUE UNTIL YOUR DEATH, AND BEYOND IF ANATOMICAL
 5 GIFT, AUTOPSY OR DISPOSITION OF REMAINS IS AUTHORIZED, UNLESS A
 6 LIMITATION ON THE BEGINNING DATE OR DURATION IS MADE BY
 7 INITIALING AND COMPLETING EITHER OR BOTH OF THE FOLLOWING:)

8 3. ~~(→)~~ This power of attorney shall become effective on
 9
 10

11 (insert a future date or event during your lifetime, such as
 12 court determination of your disability, when you want this
 13 power to first take effect)

14 (IF YOU DO NOT AMEND OR REVOKE THIS POWER, OR IF YOU DO NOT
 15 SPECIFY A SPECIFIC ENDING DATE IN SECTION 4, IT WILL REMAIN IN
 16 EFFECT UNTIL YOUR DEATH, EXCEPT THAT YOUR AGENT WILL STILL HAVE
 17 THE AUTHORITY TO DONATE YOUR ORGANS, AUTHORIZE AN AUTOPSY, AND
 18 DISPOSE OF YOUR REMAINS AFTER YOUR DEATH, IF YOU GRANT THAT
 19 AUTHORITY TO YOUR AGENT.)

20 4. ~~(→)~~ This power of attorney shall terminate on
 21

22 (insert a future date or event, such as court determination of
 23 your disability, if ~~when~~ you want this power to terminate prior
 24 to your death)

25 (YOU CANNOT HAVE CO-AGENTS. IF YOU WISH TO NAME SUCCESSOR
 26 AGENTS, INSERT THE NAMES AND ADDRESSES OF SUCH SUCCESSORS IN

1 THE FOLLOWING PARAGRAPH.)

2 5. If any agent named by me shall die, become incompetent,
3 resign, refuse to accept the office of agent or be unavailable,
4 I name the following (each to act alone and successively, in
5 the order named) as successors to such agent:

6
7

8 For purposes of this paragraph 5, a person shall be considered
9 to be incompetent if and while the person is a minor or an
10 adjudicated incompetent or disabled person or the person is
11 unable to give prompt and intelligent consideration to health
12 care matters, as certified by a licensed physician. (IF YOU
13 WISH TO NAME YOUR AGENT AS GUARDIAN OF YOUR PERSON, IN THE
14 EVENT A COURT DECIDES THAT ONE SHOULD BE APPOINTED, YOU MAY,
15 BUT ARE NOT REQUIRED TO, DO SO BY RETAINING THE FOLLOWING
16 PARAGRAPH. THE COURT WILL APPOINT YOUR AGENT IF THE COURT FINDS
17 THAT SUCH APPOINTMENT WILL SERVE YOUR BEST INTERESTS AND
18 WELFARE. STRIKE OUT PARAGRAPH 6 IF YOU DO NOT WANT YOUR AGENT
19 TO ACT AS GUARDIAN.)

20 6. If a guardian of my person is to be appointed, I
21 nominate the agent acting under this power of attorney as such
22 guardian, to serve without bond or security.

23 7. I am fully informed as to all the contents of this form
24 and understand the full import of this grant of powers to my
25 agent.

1 Date

2 Signed.....

3 (principal's signature or mark ~~principal~~)

4 The principal has had an opportunity to review ~~read~~ the

5 above form and has signed the form or acknowledged his or her

6 signature or mark on the form in my presence. The undersigned

7 witness certifies that the witness is not: (a) the attending

8 physician or mental health service provider or relative of the

9 physician or provider; (b) an owner, operator, or relative of

10 an owner or operator of a health care facility in which the

11 principal is a patient or resident; (c) a parent, sibling,

12 descendant, or any spouse of such parent, sibling, or

13 descendant of either the principal or any agent or successor

14 agent under the foregoing power of attorney, whether such

15 relationship is by blood, marriage, or adoption; or (d) an

16 agent or successor agent under the foregoing power of attorney.

17

18 (Witness Signature) (Witness Signature)

19

20 (Print Witness Name) (Print Witness Name)

21

22 (Street Address) (Street Address)

23

24 (City, State, ZIP) (City, State, ZIP)

25 Residing at.....

26 ~~(witness)~~

1 (YOU MAY, BUT ARE NOT REQUIRED TO, REQUEST YOUR AGENT AND
 2 SUCCESSOR AGENTS TO PROVIDE SPECIMEN SIGNATURES BELOW. IF YOU
 3 INCLUDE SPECIMEN SIGNATURES IN THIS POWER OF ATTORNEY, YOU MUST
 4 COMPLETE THE CERTIFICATION OPPOSITE THE SIGNATURES OF THE
 5 AGENTS.)

6 Specimen signatures of	I certify that the signatures of my
7 agent (and successors).	agent (and successors) are correct.
8
9 (agent)	(principal)
10
11 (successor agent)	(principal)
12
13 (successor agent)	(principal)"

14 (b) The statutory short form power of attorney for health
 15 care (the "statutory health care power") authorizes the agent
 16 to make any and all health care decisions on behalf of the
 17 principal which the principal could make if present and under
 18 no disability, subject to any limitations on the granted powers
 19 that appear on the face of the form, to be exercised in such
 20 manner as the agent deems consistent with the intent and
 21 desires of the principal. The agent will be under no duty to
 22 exercise granted powers or to assume control of or
 23 responsibility for the principal's health care; but when
 24 granted powers are exercised, the agent will be required to use
 25 due care to act for the benefit of the principal in accordance
 26 with the terms of the statutory health care power and will be

1 liable for negligent exercise. The agent may act in person or
2 through others reasonably employed by the agent for that
3 purpose but may not delegate authority to make health care
4 decisions. The agent may sign and deliver all instruments,
5 negotiate and enter into all agreements and do all other acts
6 reasonably necessary to implement the exercise of the powers
7 granted to the agent. Without limiting the generality of the
8 foregoing, the statutory health care power shall include the
9 following powers, subject to any limitations appearing on the
10 face of the form:

11 (1) The agent is authorized to give consent to and
12 authorize or refuse, or to withhold or withdraw consent to,
13 any and all types of medical care, treatment or procedures
14 relating to the physical or mental health of the principal,
15 including any medication program, surgical procedures,
16 life-sustaining treatment or provision of food and fluids
17 for the principal.

18 (2) The agent is authorized to admit the principal to
19 or discharge the principal from any and all types of
20 hospitals, institutions, homes, residential or nursing
21 facilities, treatment centers and other health care
22 institutions providing personal care or treatment for any
23 type of physical or mental condition. The agent shall have
24 the same right to visit the principal in the hospital or
25 other institution as is granted to a spouse or adult child
26 of the principal, any rule of the institution to the

1 contrary notwithstanding.

2 (3) The agent is authorized to contract for any and all
3 types of health care services and facilities in the name of
4 and on behalf of the principal and to bind the principal to
5 pay for all such services and facilities, and to have and
6 exercise those powers over the principal's property as are
7 authorized under the statutory property power, to the
8 extent the agent deems necessary to pay health care costs;
9 and the agent shall not be personally liable for any
10 services or care contracted for on behalf of the principal.

11 (4) At the principal's expense and subject to
12 reasonable rules of the health care provider to prevent
13 disruption of the principal's health care, the agent shall
14 have the same right the principal has to examine and copy
15 and consent to disclosure of all the principal's medical
16 records that the agent deems relevant to the exercise of
17 the agent's powers, whether the records relate to mental
18 health or any other medical condition and whether they are
19 in the possession of or maintained by any physician,
20 psychiatrist, psychologist, therapist, hospital, nursing
21 home or other health care provider.

22 (5) The agent is authorized: to direct that an autopsy
23 be made pursuant to Section 2 of "An Act in relation to
24 autopsy of dead bodies", approved August 13, 1965,
25 including all amendments; to make a disposition of any part
26 or all of the principal's body pursuant to the Illinois

1 Anatomical Gift Act, as now or hereafter amended; and to
2 direct the disposition of the principal's remains.

3 (THE NAME, ADDRESS, AND PHONE NUMBER OF THE PERSON
4 PREPARING THIS FORM OR WHO ASSISTED THE PRINCIPAL IN COMPLETING
5 THIS FORM MAY OPTIONALLY BE INSERTED BELOW) .

6

7 (name)

8

9 (address)

10

11 (phone)

12 (Source: P.A. 93-794, eff. 7-22-04.)

13 (755 ILCS 45/4-12) (from Ch. 110 1/2, par. 804-12)

14 Sec. 4-12. Saving clause. This Act does not in any way
15 invalidate any health care agency executed or any act of any
16 agent done, or affect any claim, right or remedy that accrued,
17 prior to September 22, 1987.

18 This amendatory Act of the 96th General Assembly does not
19 in any way invalidate any health care agency executed or any
20 act of any agent done, or affect any claim, right, or remedy
21 that accrued, prior to the effective date of this amendatory
22 Act of the 96th General Assembly.

1 (Source: P.A. 86-736.)